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TO: Docket Control
Arizona Corporation Commission

AZ CORP COMMISSION
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FROM: Deborah R. Scott

for Director
Utilities Division

DATE: September 26, 2000

RE: IN THE MATTER OF THE APPLICATIONS OF H2O, INC., AND
JOHNSON UTILITIES COMPANY FOR AN EXTENSION OF THEIR
CERTIFICATES OF CONVENIENCE AND NECESSITY (DOCKET NOS.
W-02234A-00-0371 AND WS-02987A-99-0583)

Attached is the Staff Report for the above referenced applications. Staff is recommending conditional approval of the H2O application following a hearing.

Originator: Mark A. DiNunzio

Attachment: Eleven copies

**STAFF REPORT
UTILITIES DIVISION**

**IN THE MATTER OF THE APPLICATIONS OF
H2O, INC., AND JOHNSON UTILITIES COMPANY
FOR AN EXTENSION OF THEIR
CERTIFICATES OF CONVENIENCE AND NECESSITY**

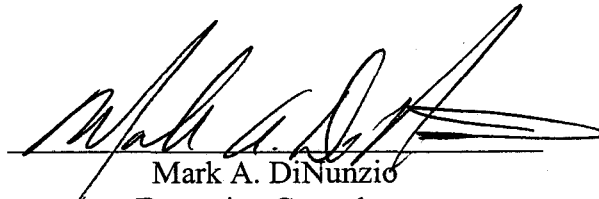
DOCKET NOS. W-02234A-00-0371 AND WS-02987A-99-0583

SEPTEMBER 2000

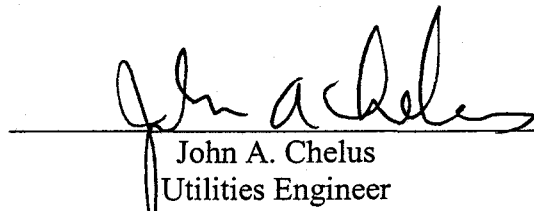
STAFF ACKNOWLEDGEMENT

The Staff members designated below contributed elements of this Staff Report.


CONTRIBUTING STAFF MEMBERS:



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INTRODUCTION

On May 30, 2000, H2O, Inc. ("H2O") filed an application for an extension to its Certificate of Convenience and Necessity ("Certificate" or "CC&N") to provide water service in Pinal County. On June 15, 2000, Johnson Utilities Company ("Johnson") filed a second amended application to its requested CC&N application (see Docket No. WS-02987A-00-0618) that included Section 31 in Township 2 South, Range 8 East to provide water and wastewater services. Johnson subsequently filed additional amendments to its CC&N application. In its application as amended, Johnson is requesting all of the same areas that H2O has requested. In addition, Johnson is requesting that some areas currently certificated to H2O be deleted from H2O's CC&N and be granted to Johnson.

BACKGROUND

All of H2O's application (approximately 2,842 acres) is contested by Johnson. Both companies are requesting to serve this area with water service, and Johnson is requesting to serve both water and wastewater to all of its requested areas. A separate Staff Report will address Johnson's ability and request to serve a number of uncontested areas. This Staff Report will address all of the contested areas being requested by both H2O and Johnson.

H2O is requesting this extension of service area in order to provide water service to property owned by and/or being developed by Queen Creek 880 and DCS Contracting, Inc. who have each requested water service from H2O. The Queen Creek 800 development (also known as the Pecan Estates development) will consist of 3,157 dwelling units and possibly a Golf Course, Elementary School and some Commercial uses. A number of other developers have asked H2O for water service in the areas H2O is requesting in this proceeding (see Figure 2).

CONTESTED AREAS

On June 15, 2000, Johnson filed a second amended application to its requested CC&N application that included Section 31 in Township 2 South, Range 8 East to provide water and wastewater services. This Section is also being requested by H2O to provide water service only.

Johnson subsequently filed additional amended applications regarding its CC&N application. In Johnson's last amended application, dated September 15, 2000, all of the requested extension areas in H2O's CC&N application are also being requested by Johnson to provide water and wastewater services. In addition, there are three areas located in Township 2 South and Range 8 East (Johnson Farms - Section 32, Pecan Ranch - Section 20 and Combs School - NW ¼ of Section 32) in which Johnson has requested the deletion of H2O's CC&N in order for Johnson to be the sole provider of both water and wastewater utilities. In these three areas, H2O currently is authorized to provide water service only. Exhibit 1 details each parcel, development name, acreage, section, township and range, total number of residences and approximate starting date for each contested area that Johnson and H2O want to serve. Exhibit 1

also indicates the contested area that Johnson seeks to delete from H2O's already certificated area.

JOHNSON UTILITIES COMPANY ANALYSIS

Background

Johnson provides water and wastewater service to approximately 169 and 127 customers, respectively (1999 annual report), within various communities in Pinal County. The Company is located southeast of Queen Creek and currently covers approximately 45 square-miles of certificated areas for both water and wastewater utilities. These certificated areas extend from Queen Creek to Florence.

Johnson's Existing Water Systems

The Company operates two independent water systems, Johnson Ranch and Sun Valley Farms V, which are approximately five miles apart. Description of each system is as follows:

1. **Johnson Ranch Water System**: This system consists of a well, one storage tank and a distribution system serving approximately 419 customers. Well Site #4 has a well that pumps 525 gallons per minute (GPM) into a 500,000 gallon storage tank, through three booster pumps (two 75 horsepower (Hp) and one 40-Hp) and into a 5,000 gallon pressure tank before distribution into the system. This distribution system covers approximately two square-miles and is approximately two miles south of the contested areas.
2. **Sun Valley Farms V Water System**: This system consists of a well, one storage tank and a distribution system serving approximately 37 customers. Well Site #V4 has a well that pumps 250 GPM into two storage tanks (10,000 gallons & 6,000 gallons), through a booster pump and into a 2,000 gallon pressure tank before distribution into the system. This distribution system covers approximately one square-mile and is approximately six miles southeast of the contested areas.

Arizona Department Of Environmental Quality Compliance

The Johnson Ranch Water System, PWS #11-128, is currently in compliance with ADEQ. In the past, ADEQ issued a Consent Order, Docket No. DW-62-00, on June 2, 2000, for numerous violations. However, on August 4, 2000, ADEQ signed a "Satisfaction and Termination of Consent Order" stating that Johnson Ranch had demonstrated to the satisfaction of ADEQ, that all terms of the Consent Order had been completed by paying a civil administrative penalty of \$4,900.00.

The Sun Valley Farms V Water System, PWS #11-116, is also currently in compliance with ADEQ. In the past, this system was also issued a Consent Order, Docket No. DW-87-00,

by ADEQ on August 1, 2000 for numerous violations. Also on August 4, 2000, ADEQ signed a "Satisfaction and Termination of Consent Order" stating that Sun Valley Farms V had demonstrated to the satisfaction of ADEQ, that all terms of the Consent Order had been completed by paying a civil administrative penalty of \$6,000.00.

As a result, the ADEQ has determined that the Johnson Ranch Water System and the Sun Valley Farms V Water System are currently delivering water that does not exceed any MCL (maximum contaminant levels) and meets the Safe Drinking Water Act quality standards.

Other Compliance Issues

Johnson has indicated that it has been working with the Arizona Department of Water Resources ("ADWR") and on July 26, 2000, submitted a copy of its Assured Water Supply for the requested areas.

Johnson currently has a Pinal County franchise and has applied to expand the franchise to include all areas that it has requested.

Johnson is in compliance with the Commission's filing requirements and current on its property taxes.

Johnson has submitted a number of Approvals to Construct and Approvals of Construction from the Arizona Department of Environmental Quality ("ADEQ").

H2O, INC. ANALYSIS

Background

H2O provides water service to approximately 681 customers (1999 Annual Report) within portions of Pinal and Maricopa County.

H2O's existing certificated area encompasses approximately ten and one-half (10-1/2) sections of land. In its application, H2O is seeking a Certificate extension for approximately four (4) sections of land. The area requested is currently contiguous to its current certificated area. The application requests permission to serve Sections 28, 29, 33 and portions of Section 31 in Township 2 South, Range 8 East and also portions of Section 5 and 6 in Township 3 South, Range 8 East.

H2O's Existing Water Systems

H2O has one water system. It consists of two wells, with a combined capacity of 1,730 gpm, one storage tank with a capacity of 200,000 gallons, two booster pumps, one 5,000 gallon pressure tank and distribution system. Two other wells are owned by the Company but not on-

line at this time. The Company has adequate storage and well production to serve its current customers and can serve up to 1,300 customers with the existing system.

The Company has a number of projects anticipated for the next 12 months. They include more storage, booster pumps, pressure tanks, main lines, and a new well. Some of these projects include:

1. Line extension for Ocotillo Meadows - New mains, pumping and storage- \$499,595
2. Links Estate Project – New Storage, pressure tanks, pumping and mains- \$978,076
3. New Storage Pumping and Source Supply Project – New storage, pressure tanks, booster pumps and well- \$254,117
4. Combs School Line extension – New Mains

Arizona Department Of Environmental Quality Compliance

H2O is in full compliance with the Arizona Department of Environmental Quality. ADEQ has determined that this system is currently delivering water that does not exceed any MCLs and meets the Safe Drinking Water Act quality requirements. The compliance history for the past five years shows the following:

1. Compliance Inspection report dated April 5, 1996 – no deficiencies.
2. Compliance Status report dated June 21, 1997, full compliance with no MCL violations.
3. Notice of Violation (NOV) Failure to obtain Approval to Construct for Vinwood Subdivision due to developer actions on September 30, 1997. NOV withdrawn after ADEQ Approval to Construct issued to Vinwood on December 4, 1997.
4. Compliance inquiry by the Commission dated January 24, 2000 – Major deficiency for lead and copper sampling. Sampling and results were delivered to ADEQ on or about April 18, 2000.
5. Compliance inquiry by the Commission on June 5, 2000 - No major Deficiencies.
6. No bacteriological violations for the past five years.
7. No violations for any MCLs including inorganic compounds (IOC's), volatile organic compounds (VOC's), synthetic organic compounds (SOC's), Gross Alpha, Lead & Copper, or Pesticides.

8. H2O has never had any consent agreements or compliance orders issued against it.

Other Compliance Issues

H2O has not provided a copy of the developer's Certificate of Assured Water Supply ("CAWS").

H2O has submitted a number of Approvals to Construct from the Arizona Department of Environmental Quality ("ADEQ").

H2O has submitted a franchise from Pinal County which includes the requested areas.

H2O is in compliance with the Commission's filing requirements and is current on its property taxes.

CONCLUSIONS AND RECOMMENDATIONS

Conclusions – H2O, Inc.

1. H2O's system's current well capacity of 1,730 GPM and storage capacity of 200,000 gallons with fire flow protection could adequately serve up to 1,300 connections. The Company currently serves approximately 681 connections. The areas being requested by the Company are contiguous to its existing CC&N. The existing water distribution system is built up to the contested areas.
2. H2O has adequate storage and well production to serve its current and future customers. The Company is in the process of finalizing plans for adding additional storage and pumping capacity to the system. Since the area being requested by the Company is contiguous to its existing CC&N, the Company can adequately serve the area it is requesting.
3. H2O is in full compliance with the Arizona Department of Environmental Quality. ADEQ has determined that this system is currently delivering water that does not exceed any MCLs and meets the Safe Drinking Water Act quality requirements.
4. H2O has complied with all rendered Commission Decisions as of the date of this report.

Conclusions – Johnson Utilities Company

1. The Johnson Ranch Water System's current well capacity of 525 GPM and storage capacity of 500,000 gallons with fire flow protection could adequately serve up to 735 connections. This system currently serves approximately 419 connections and is approximately two miles away from the contested areas.

2. The Sun Valley Farms V Water System's current well capacity of 250 GPM and storage capacity of 16,000 gallons could adequately serve up to 36 connections. This system currently serves approximately 37 connections and is approximately six miles away from the contested areas. The Company is also constructing another water system within the Wildhorse project. This system is located approximately two miles south of the Sun Valley Farms V System and currently has a well and a 50,000 gallon storage tank. This system is still under construction and is not in service. This new system is 8 miles away from the contested areas.
3. ADEQ has determined that the Johnson Ranch Water System and the Sun Valley Farms V Water System are currently delivering water that does not exceed any MCLs and meets the Safe Drinking Water Act quality standards.
4. Johnson has complied with all rendered Commission Decisions as of the date of this report.

Conclusions on Contested Areas

After reviewing the relevant information on both companies, Staff recommends that Johnson Utilities Company be denied its requested extension for its Certificate of Convenience and Necessity for all areas as described in Exhibit 1. Staff recommends that H2O, Inc.'s request to provide water service be approved to the following sections in Township 2 South and Range 8 East: Section 28, Section 29, Section 33 and Section 31 - East of the Railroad. Staff further recommends that H2O, Inc.'s request to provide water service to portions of Section 5 and Section 6 in Township 3 South and Range 8 East be denied due to the fact that no need for services has been demonstrated in that area.

Staff recommends the contested areas be granted to H2O, Inc. based on the following conclusions:

- a. H2O has plant facilities that are located directly adjacent to the contested areas.
- b. Johnson's nearest plant facilities are approximately two (2) miles south of the contested areas.
- c. The Southern Pacific Railroad separates the contested areas from the non-contested areas. This structural railroad boundary would be expensive to cross (bore) if water systems were to be interconnected from each side of the railroad tracks by Johnson. Since H2O's facilities are already located near the contested areas, Staff feels that it would be duplicative and inefficient, and

therefore contrary to the public interest, for another water system to be constructed on the eastern side of this structural boundary.

RECOMMENDATIONS:

Staff recommends that H2O, Inc.'s request to provide water service be approved to provide water service to the following sections in Township 2 South and Range 8 East: Section 28, Section 29, Section 33 and Section 31- east of the Railroad.

Staff further recommends that H2O, Inc.'s request to provide water service to portions of Section 5 and Section 6 in Township 3 and Range 8 East be denied.

Staff further recommends that Johnson Utilities Company's extension request be denied for all areas as described in Exhibit 1.

Staff further recommends denial of the request by Johnson Utilities Company to delete any of H2O's certificated territory.

Staff further recommends that H2O be ordered to file a copy of the developers' CAWS for Circle Cross Ranch, Johnson Farms, Pecan Estates, The Home Place and Ware Farms (see Exhibit 1) with the Commission within 365 days from the effective date of the Commission's Decision.

Staff further recommends that the Commission's Decision covering the extension be considered null and void without further order from the Commission should H2O fail to submit copies of Approvals to Construct within the timeframe as described above.

Staff further recommends that the Commission's Decision covering the extension be considered null and void without further order from the Commission should H2O, Inc., fail to meet the above conditions within the time specified.

Staff further recommends that H2O, Inc., be ordered to charge its existing rates and charges in the approved extension areas.

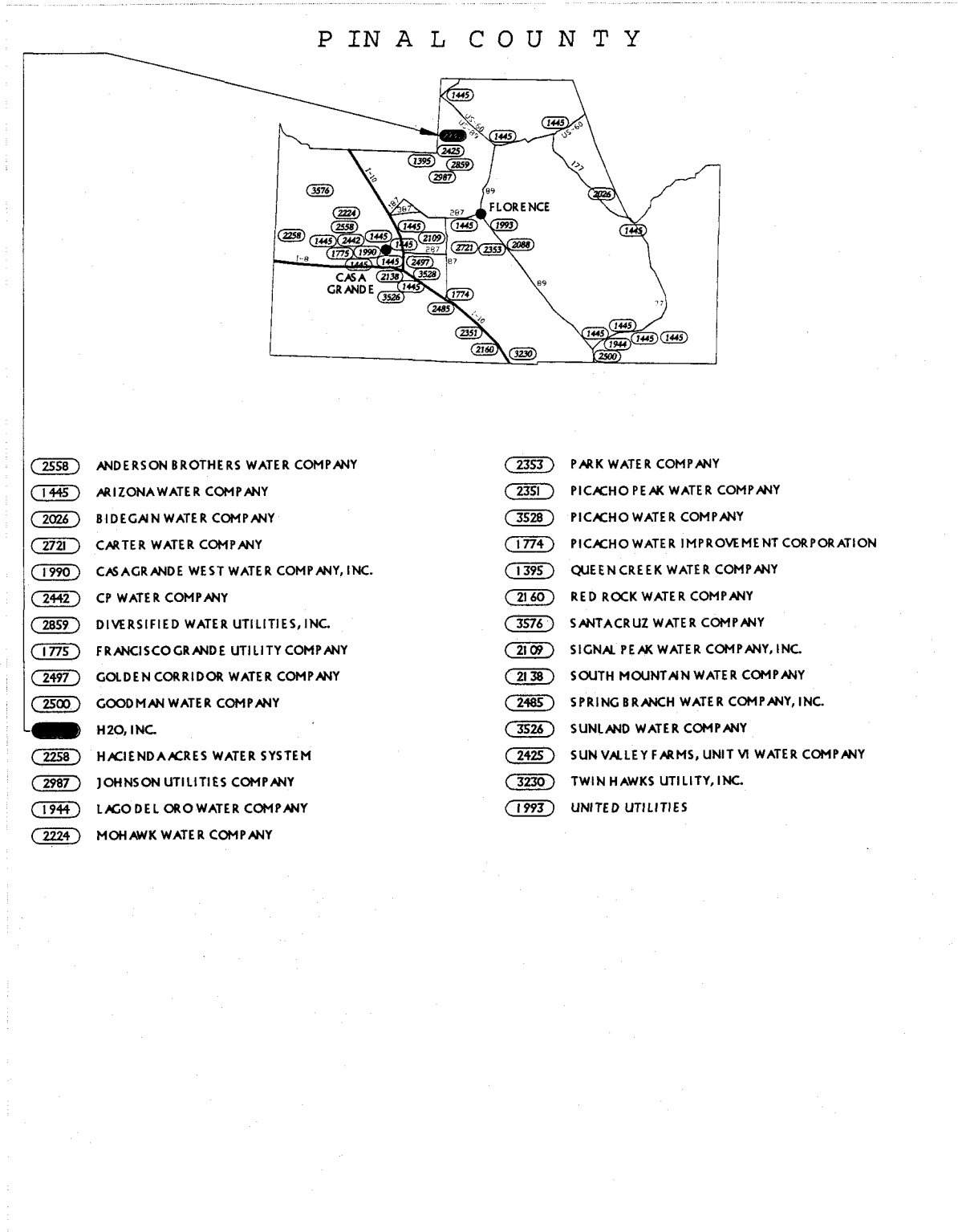
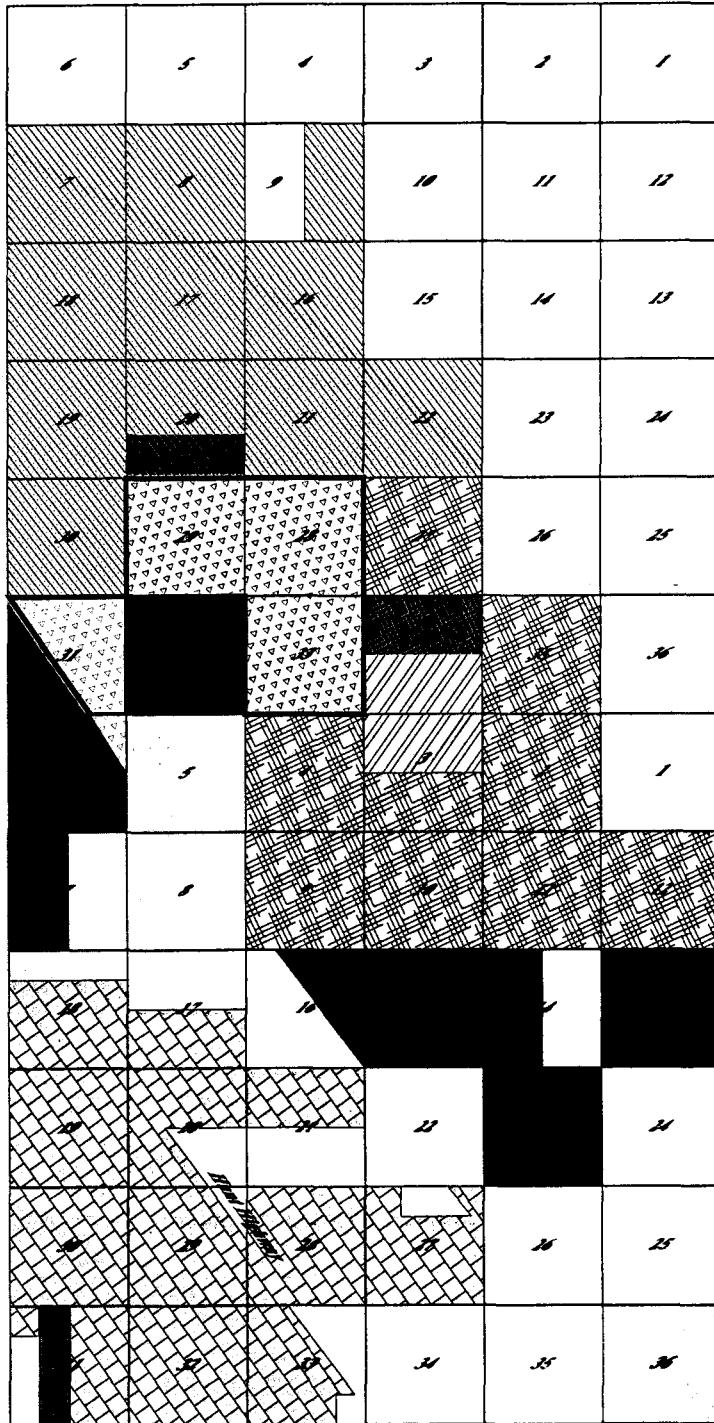


Figure 1. Pinal County Map

COUNTY: Pinal

RANGE 8 East



TOWNSHIP 2 South

TOWNSHIP 3 South





















-  W-2859 (2)
Diversified Water Utilities, Inc.
-  W-2234 (1)
H₂O, Inc.
-  W-2425 (2)
Sun Valley Farms Unit VI Water Company
-  Also requested by
Johnson Utilities
-   Johnson Utilities Company
Docket No. WS-2987-99-583
Application for Extension
2nd Amendment
-  Also requested by
H₂O, Inc.
-  3rd Amendment
Section 32 requested by Johnson
already certificated to H₂O, Inc.
-  Also requested by
H₂O, Inc.
-  Sections containing contested areas between
Johnson Utilities & H₂O, Inc.
-  W-2859 (2)
Diversified Water Utilities, Inc.
-  WS-2987 (5)  Sewer
Johnson Utilities Company
-  W-2425 (2)
Sun Valley Farms Unit VI Water Company
-   Sewer
-  Johnson Utilities Company
Docket No. WS-2987-99-583
Application for Extension
-  2nd Amendment
-  Also requested by
H₂O, Inc.
-  4th Amendment

Figure 2. Certificated Area Map

H2O, Inc. and Johnson Utilities Company
Request for CC&N Extension Areas
W-02234A-00-0317 and WS-02987A-99-0583

PARCEL	NAME	ACRES	SECTIONS	TOWNSHIP & RANGE	TOTAL NO. RESIDENCE	APPROXIMATE START DATE
22	*Circle Cross Ranch (East of R.R.)	485	6 & 31	T2S, R8E & T3S, R8E	2,000	2002
14	*Johnson Farms (Within Section 5)	160	5	T3S, R8E	700	2003
15	*Pecan Estates	640	29	T2S, R8E	3,017	2000
16	*The Home Place	640	28	T2S, R8E	2,174	2004
17	*Ware Farms	480	33	T2S, R8E	1,842	2001
18	*Various	160	33	T2S, R8E	120	2001
14	**Johnson Farms Section 32	630	32	T2S, R8E	75	2003
20	**Pecan Ranch	240	20	T2S, R8E	0	2000
14	**Combs School	10	NW 1/4 of 32	T2S, R8E	0	2001

* CC&N territory that both H2O and Johnson are requesting

** CC&N territory that Johnson requests be deleted from H2O's certificated area